

Appl. No. 10/656,489
Atty. Docket No. 9355
Amdt. dated 28 February, 2006
Reply to Office Action of November 30, 2005
Customer No. 27752

Amendments to the Drawings:

The attached sheet of drawings replaces the original sheets including Fig. 1-3.

Attachment: Replacement Sheets

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REMARKS

Claim Status

Claims 1-7, 10, 12-17 and 20 are pending in the present application. No additional claims fee is believed to be due.

Claims 8, 9, 11, 18 and 19 are canceled without prejudice.

Claims 1 and 12 have been amended to more specifically characterize that the withdrawal end of the primary absorbent member comprises a finger indent. Support for this amendment is found at Page 11, Lines 20-25 and Page 9, Lines 11-13 of the specification.

Claims 13-17 and 20 have been amended to correct a typographical mistake by changing the dependency from claim 11 to claim 12.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Claim Objections

Claims 13-20 have been objected to as they depend from claim 11, though they follow independent claim 12. Claims 13-17 and 20 have been amended to change their dependency from claim 11 to claim 12.

Drawings

The drawings have been objected to under 37 C.F.R. §1.83(a). Claims 8, 9, 18 and 19 have been cancelled.

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Rejection Under 35 U.S.C. §102(b) Over U.S. 6,258,075 (Taylor et al.)

Claims 1-11 have been rejected under 35 U.S.C. §102(b) as being anticipated by Taylor et al.

With respect to the novelty of claims 1-7 and 10: Applicants respectfully traverse the rejection as Taylor et al. fails to disclose or teach a catamenial tampon which comprises a primary absorbent member having an insertion end, a withdrawal end and an outer surface, and a secondary absorbent member attached to the outer surface of the primary absorbent member proximate to said withdrawal end of said primary absorbent member, wherein the withdrawal end of the primary absorbent member comprises a finger indent.

As noted in the Office Action on Page 5, Second Paragraph Taylor et al. does not disclose a primary absorbent member, which comprises a finger indent.

Accordingly, Applicants respectfully submit that claim 1 and its dependent claims 2-7 and 10 and are novel over Taylor et al. and the rejection should be withdrawn.

Rejection Under 35 U.S.C. §103(a) Over U.S. 6,258,075 (Taylor et al.) in view of U.S. 3,946,737 (Kobler)

Claims 12-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Taylor et al. in view of Kobler.

With respect to claims 12-17 and 20 and obviousness: Applicants respectfully traverse the rejection of claims 12-17 and 20 as the cited references do not establish a *prima facie* case of obviousness. As stated in the MPEP §2143, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Further, the teaching or suggestion to make the claimed

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combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

1. No suggestion or motivation to modify Taylor et al. in light of reference teachings

As mentioned above and noted in the Office Action, Taylor et al. fails to disclose or suggest a catamenial tampon which comprises a primary absorbent member having an insertion end, a withdrawal end and an outer surface, and a secondary absorbent member attached to the outer surface of the primary absorbent member proximate to said withdrawal end of said primary absorbent member, wherein the withdrawal end of the primary absorbent member comprises a finger indent.

As stated in the Office Action on Page 5, Third Paragraph Kobler discloses a tampon 10, as shown in figure 7, comprising a bulge 11 forming an indent below it, providing a space for the fingers to grasp it. Further, Kobler discloses that the tampon is enclosed in a protective wrap with a bulge in the middle section of the tampon, which serves as a stop and a guide to hold the tampon at its middle section. (Column 1, Lines 19-22) This is in contrast to the catamenial tampon of the present invention wherein the placement of the secondary absorbent member on the outside of the surface allows for a finger indent on the withdrawal end of the primary absorbent member.

Neither, Taylor et al. or Kobler teach, disclose or otherwise suggest the catamenial tampon of the present invention, wherein the withdrawal end of the primary absorbent member comprises a finger indent. There can be, therefore, no suggestion to modify Taylor et al. to have the claimed finger indent in the withdrawal end of the primary absorbent member.

Appl. No. 10/656,489
Atty. Docket No. 9355
Amdt. dated 28 February, 2006
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Customer No. 27752

2. No teaching or suggestion of all the claim limitations

The claimed invention is directed to a catamenial tampon which comprises a primary absorbent member having an insertion end, a withdrawal end and an outer surface, and a secondary absorbent member attached to the outer surface of the primary absorbent member proximate to said withdrawal end of said primary absorbent member, wherein the withdrawal end of the primary absorbent member comprises a finger indent. These elements are not found in the cited references, either singly or in combination.

For the reasons above, therefore Applicants respectfully submit that the Office Action fails to make out a *prima facie* case of obviousness for Claims 12-17 and 20. Because Claim 12 is patentable over the cited references, Applicants submit that dependent Claims 13-17 and 20 are also patentable.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the objections to the claims and drawings and the rejections under 35 U.S.C. §102 and §103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-7, 10, 12-17 and 20 is respectfully requested.

Respectfully submitted,

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By 
Signature

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Date: 28 February, 2006
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